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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/057,406	04/08/1998	HARALD WERENICZ	94-36-3-US-D	6379

7590

11/30/2001

HB FULLER CO  
PATENT DEPARTMENT  
P.O. BOX 64683  
ST PAUL, MN 55164-0683

EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

38

DATE MAILED: 11/30/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-38

**Advisory Action**

Application No.

09/057,406

Applicant(s)

WERENICZ ET AL.

Examiner

Jeff H. Aftergut

Art Unit

1733

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 November 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 2-12, 33-36, 38-42, 44 and 46-56.Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Jeff H. Aftergut*  
 Jeff H. Aftergut  
 Primary Examiner  
 Art Unit: 1733

Continuation of 5. does NOT place the application in condition for allowance because: as discussed at length during the interview dated 10-25-01, the references to Cardinal and Maletsky were deemed to be prior art from an analogous field of endeavor. Both references were attempting to provide thin coatings of thermoplastic material upon nonwoven substrates. The reference to Maletsky expressly suggested the use of an extrusion device for this operation. Additionally, Maletsky suggested that in the prior art one applied elastomeric coating for the films (see column 1, lines 10-16 for example) and the reference to Cardinal was extruding an elastomeric material. There is no reason to believe that one skilled in the art would have chosen to employ another type of extrusion technique other than that which was conventionally employed (and the techniques of Cardinal have been established as the conventional technique for application of thin films which were elastomeric in the formation of a disposable absorbent article like a diaper). Additionally, applicant is advised that the reference to Maletsky suggested that the processing temperatures were as high as 500 degrees F (260 degrees C). One would have thus recognized that the temperature of the extruder of Cardinal (heated to 240 degrees C) would not have prevented the use of this type of extruder in Maletsky for example.